

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

ANDREA GRAZIOSI

Plaintiff

v.

INSPIRITEC,

Defendant

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:

CIVIL ACTION

NO. 23-CV-4340

O R D E R

AND NOW, this 18th day of March 2024, upon consideration of Defendant Inspiritec's *Motions to Dismiss*, (ECF Nos. 18 & 19), Plaintiff Andrea Graziosi's responses thereto, (ECF Nos. 23 & 24), and Defendant's reply, (ECF No. 25), it is hereby **ORDERED** that:

1. The Motions are **GRANTED, in part**, and **DENIED, in part**, for the reasons set forth in the accompanying Memorandum as follows:

- a. The Motions are **DENIED**, as to Graziosi's ADA and NJLAD claims for disability discrimination on the basis that he was "regarded as" disabled; and
- b. The Motions are **GRANTED**, as to Graziosi's remaining claims which are **DISMISSED** from this case without prejudice.

2. If Graziosi believes that he can cure the defects in the claims that the Court dismissed from this case, he may file an amended complaint within fourteen (14) days of the date of this Order. Any amended complaint must identify the defendant in the caption of the amended complaint and must state all of the factual bases for Graziosi's claims against the defendant. The amended complaint shall be a complete document that does not rely on the initial Complaint or other papers filed in this case to state a claim. **If Graziosi files an amended complaint and still intends to proceed on the claims the Court did not dismiss, he must replead those claims**

including all of the facts supporting those claims or they will not be considered part of this lawsuit.¹ When drafting his amended complaint, Graziosi should be mindful of the Court's

reasons for dismissing the claims in his initial Complaint as explained in the Court's Memorandum.

3. If Graziosi files an amended complaint, Inspiritec shall respond in the time frame set forth in Federal Rule of Civil Procedure 15(a)(3).

4. If Graziosi does not file an amended complaint in response to this order, the case will proceed *only* on Graziosi's ADA and NJLAD claims for disability discrimination on the basis that he was "regarded as" disabled. If Graziosi does not wish to file an amended complaint, he may submit a notice to that effect for faster processing.

5. If Graziosi does not file an amended complaint, Inspiritec shall file an answer to the remaining claims within fourteen (14) days of the date of Graziosi's notice that he seeks to proceed on his remaining claims or the expiration of the time for him to file an amended complaint, whichever is earlier.

BY THE COURT:

/s/ Nitza I. Quiñones Alejandro

NITZA I. QUIÑONES ALEJANDRO

Judge, United States District Court

¹ Graziosi should note that "an amended pleading supersedes the original pleading and renders the original pleading a nullity." *Garrett v. Wexford Health*, 938 F.3d 69, 82 (3d Cir. 2019). In other words, "the most recently filed amended complaint becomes the operative pleading." *Id.*